

MONTANA LEGISLATIVE HISTORY

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Chapter 227 19 91

Bill H 237 S \_\_\_\_\_

Original bill & history ✓ C

H. Committee on Natural Resources

Hearing Date(s) Jan 23 ✓ C

Jan 25 ✓ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Date Out \_\_\_\_\_ C

S. Committee on Natural Resources

Hearing Date(s) Mar 08 ✓ C

Mar 13 ✓ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Did this bill originate in an interim committee? \_\_\_\_\_ Yes \_\_\_\_\_ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

## HOUSE FINAL STATUS

HB 238

## HB 236 INTRODUCED BY GILBERT

REVISION OF MOTOR CARRIER SAFETY STANDARDS  
BY REQUEST OF DEPARTMENT OF JUSTICE

|      |                                       |                          |   |
|------|---------------------------------------|--------------------------|---|
| 1/17 | INTRODUCED                            |                          |   |
| 1/17 | REFERRED TO HIGHWAYS & TRANSPORTATION |                          |   |
| 1/18 | FIRST READING                         |                          |   |
| 1/24 | HEARING                               |                          |   |
| 1/25 | COMMITTEE REPORT—BILL PASSED          |                          |   |
| 1/30 | 2ND READING PASSED                    | 100                      | 0 |
| 2/01 | 3RD READING PASSED                    | 98                       | 1 |
|      |                                       |                          |   |
|      | TRANSMITTED TO SENATE                 |                          |   |
| 2/01 | REFERRED TO HIGHWAYS & TRANSPORTATION |                          |   |
| 2/02 | FIRST READING                         |                          |   |
| 3/14 | HEARING                               |                          |   |
| 3/15 | COMMITTEE REPORT—BILL CONCURRED       |                          |   |
| 3/16 | 2ND READING CONCURRED                 | 49                       | 0 |
| 3/18 | 3RD READING CONCURRED                 | 48                       | 1 |
|      |                                       |                          |   |
|      | RETURNED TO HOUSE                     |                          |   |
| 3/23 | SIGNED BY SPEAKER                     |                          |   |
| 3/25 | SIGNED BY PRESIDENT                   |                          |   |
| 3/25 | TRANSMITTED TO GOVERNOR               |                          |   |
| 3/29 | SIGNED BY GOVERNOR                    |                          |   |
|      | CHAPTER NUMBER 226                    |                          |   |
|      |                                       | EFFECTIVE DATE: 10/01/91 |   |

## HB 237 INTRODUCED BY ELLISON, ET AL.

EXPAND THE PERMISSIBLE PROJECTS FINANCED  
BY HARD-ROCK MINING IMPACT BONDS

|      |                                 |                         |   |
|------|---------------------------------|-------------------------|---|
| 1/17 | INTRODUCED                      |                         |   |
| 1/17 | REFERRED TO NATURAL RESOURCES   |                         |   |
| 1/18 | FIRST READING                   |                         |   |
| 1/18 | FISCAL NOTE REQUESTED           |                         |   |
| 1/23 | HEARING                         |                         |   |
| 1/23 | FISCAL NOTE RECEIVED            |                         |   |
| 1/23 | FISCAL NOTE PRINTED             |                         |   |
| 1/26 | COMMITTEE REPORT—BILL PASSED    |                         |   |
| 1/30 | 2ND READING PASSED              | 100                     | 0 |
| 2/01 | 3RD READING PASSED              | 98                      | 0 |
|      |                                 |                         |   |
|      | TRANSMITTED TO SENATE           |                         |   |
| 2/01 | REFERRED TO NATURAL RESOURCES   |                         |   |
| 2/02 | FIRST READING                   |                         |   |
| 3/08 | HEARING                         |                         |   |
| 3/14 | COMMITTEE REPORT—BILL CONCURRED |                         |   |
| 3/16 | 2ND READING CONCURRED           | 49                      | 0 |
| 3/18 | 3RD READING CONCURRED           | 49                      | 0 |
|      |                                 |                         |   |
|      | RETURNED TO HOUSE               |                         |   |
| 3/23 | SIGNED BY SPEAKER               |                         |   |
| 3/25 | SIGNED BY PRESIDENT             |                         |   |
| 3/25 | TRANSMITTED TO GOVERNOR         |                         |   |
| 3/29 | SIGNED BY GOVERNOR              |                         |   |
|      | CHAPTER NUMBER 227              |                         |   |
|      |                                 | EFFECTIVE DATE: 3/29/91 |   |

## HB 238 INTRODUCED BY BOHARSKI, ET AL.

REVISE LIMITATIONS ON THE MAXIMUM GENERAL  
FUND BUDGETS OF SCHOOL DISTRICTS

|      |                                            |
|------|--------------------------------------------|
| 1/17 | INTRODUCED                                 |
| 1/17 | REFERRED TO EDUCATION & CULTURAL RESOURCES |
| 1/18 | FIRST READING                              |
| 1/28 | HEARING                                    |
| 2/20 | TABLED IN COMMITTEE                        |

HOUSE BILL NO. 237

INTRODUCED BY ELLISON, D. BROWN, KELLER, RANEY,  
GILBERT, QUILICI, GRADY, M. HANSON, GROSFIELD

IN THE HOUSE

|                  |                                                               |
|------------------|---------------------------------------------------------------|
| JANUARY 17, 1991 | INTRODUCED AND REFERRED TO COMMITTEE<br>ON NATURAL RESOURCES. |
| JANUARY 18, 1991 | FIRST READING.                                                |
| JANUARY 26, 1991 | COMMITTEE RECOMMEND BILL<br>DO PASS. REPORT ADOPTED.          |
| JANUARY 28, 1991 | PRINTING REPORT.                                              |
| JANUARY 30, 1991 | SECOND READING, DO PASS.                                      |
| JANUARY 31, 1991 | ENGROSSING REPORT.                                            |
| FEBRUARY 1, 1991 | THIRD READING, PASSED.<br>AYES, 98; NOES, 0.                  |
|                  | TRANSMITTED TO SENATE.                                        |

IN THE SENATE

|                  |                                                               |
|------------------|---------------------------------------------------------------|
| FEBRUARY 2, 1991 | INTRODUCED AND REFERRED TO COMMITTEE<br>ON NATURAL RESOURCES. |
|                  | FIRST READING.                                                |
| MARCH 14, 1991   | COMMITTEE RECOMMEND BILL BE<br>CONCURRED IN. REPORT ADOPTED.  |
| MARCH 16, 1991   | SECOND READING, CONCURRED IN.                                 |
| MARCH 18, 1991   | THIRD READING, CONCURRED IN.<br>AYES, 49; NOES, 0.            |
|                  | RETURNED TO HOUSE.                                            |

IN THE HOUSE

|                |                              |
|----------------|------------------------------|
| MARCH 19, 1991 | RECEIVED FROM SENATE.        |
|                | SENT TO ENROLLING.           |
|                | REPORTED CORRECTLY ENROLLED. |

1 *House* BILL NO. *237*  
 2 INTRODUCED BY *Ellison Jane Brown Keller Roney*  
 3 *Julius Brady M. Hansen*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXPAND THE  
 5 PERMISSIBLE PROJECTS FINANCED BY HARD-ROCK MINING IMPACT  
 6 BONDS; TO CLARIFY THE PROCEDURE FOR THE ISSUANCE OF BONDS;  
 7 TO PROVIDE FOR INTERLOCAL AGREEMENTS TO FACILITATE BOND  
 8 ISSUES; AMENDING SECTIONS 15-16-201, 82-4-335, 82-4-339,  
 9 90-6-302, 90-6-307, 90-6-310, AND 90-6-311, MCA; AND  
 10 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 90-6-302, MCA, is amended to read:

14 "90-6-302. Definitions. In this part the following  
 15 definitions apply:

16 (1) "Board" means the hard-rock mining impact board  
 17 established in 2-15-1822.

18 (2) "Bonds" include bonds, notes, warrants, debentures,  
 19 certificates of indebtedness, temporary bonds, temporary  
 20 notes, interim receipts, interim certificates, and all  
 21 instruments or obligations evidencing or representing  
 22 indebtedness or evidencing or representing the borrowing of  
 23 money or evidencing or representing a charge, lien, or  
 24 encumbrance on specific revenues, special assessments,  
 25 income, or property of a political subdivision, including

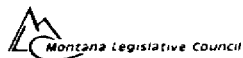
1 all instruments or obligations payable from a special fund.

2 (3) "Facility" means a facility that is owned,  
 3 operated, or maintained by a local government unit and that,  
 4 under the impact plan submitted under the provisions of  
 5 90-6-307, can be expected to have increased capital and  
 6 operating costs as a result of the large-scale mineral  
 7 development.

8 ~~(3)~~(4) "Local government unit" means a county, city,  
 9 town, school district, or any of the following independent  
 10 special districts:

- 11 (a) rural fire district;
- 12 (b) public hospital district;
- 13 (c) refuse disposal district;
- 14 (d) county water and sewer district;
- 15 (e) county water district; or
- 16 (f) county sewer district; or
- 17 (g) park district.

18 ~~(4)~~(5) "Large-scale mineral development" means the  
 19 construction or operation of a hard-rock mine and the  
 20 associated milling facility for which a permit is applied  
 21 for under 82-4-335 on or after May 18, 1981, and for which  
 22 the average number of persons on the payroll of the mineral  
 23 developer and of contractors at the mineral development  
 24 exceeds or is projected to exceed 75 for any consecutive  
 25 6-month period. A mining operation that would qualify as a



-2- INTRODUCED BILL  
 HB 237

large-scale mineral development under this subsection is not a large-scale mineral development if the mine owner and operator are small miners as defined in 82-4-303."

**Section 2.** Section 90-6-310, MCA, is amended to read:

"90-6-310. Education Local government facility impact bonds. (1) When the need for ~~new--school~~ the construction, renovation, improvement, or acquisition of local government facilities as a result of the large-scale mineral development is determined under 90-6-307, the owners of a large-scale mineral development may enter into a written agreement with the ~~trustees-of-a-school-district-that-has~~ local government unit having the burden for the issuance--of bonds--to--cover-the-cost-of-such-new-construction increased capital and operating costs expected to be incurred by the facilities. The ~~trustees--of--a--school--district~~ local government unit may execute a written agreement with the owner of a large-scale mineral development for the issuance of any special industrial ~~educational~~ local government facility impact bonds provided for in this section.

(2) The agreement with the owners of a large-scale mineral development shall provide for a payment guarantee, in addition to the taxes imposed by the ~~school--district~~ local government unit on property owners generally, of the principal and interest on the bonds provided for in this section. Payment will then be made by an annual special tax

levy on the property of the large-scale mineral development sufficient to retire the principal and interest on these special impact bonds. The bonds shall not be an obligation of the ~~trustees--or--the--school-district~~ local government unit, but shall be special obligations limited to the revenue derived from the special tax levy. A local government unit shall establish a levy and, to the extent bonds are issued as provided in this section, shall pledge the special fund and all revenues of the special tax levy to the repayment of the bonds.

(3) The debt limits set forth in 7-7-2203, 7-7-4201, and 20-9-406 ~~and--the--provisions-of-20-9-410-and-20-9-421~~ through-20-9-432, inclusive, do not apply to bonds issued in accordance with this section. The interest on such bonds shall not be subject to state taxes.

(4) The impact bonds shall be authorized by the governing body of the local government unit by a resolution that states:

(a) the facility for which the bonds are issued;

(b) the amount of the bonds;

(c) the rate of interest the bonds bear;

(d) the date of the bonds and the maturity date or dates of the bonds;

(e) the dates interest is payable on the bonds;

(f) the redemption options, if any, with respect to the

1 bonds; and

2 (g) the manner of execution of the bonds.

3 (5) The impact bonds shall be:

4 (a) in registered form as to principal and interest;

5 (b) payable in installments and at times not exceeding  
6 30 years from their date of issuance; and

7 (c) payable at a place or places and be evidenced in a  
8 manner the governing body determines is in the best interest  
9 of the local government unit.

10 (6) Any impact bonds issued under the authority of this  
11 section may be sold at public or private sale in a manner,  
12 at a time or times, and at a price above or below par as may  
13 be determined by the governing body of the local government  
14 unit. All expenses, premiums, and commissions that the local  
15 government unit considers necessary or advantageous in  
16 connection with the authorization, sale, and issuance of the  
17 bonds may be paid by the governing body of the local  
18 government unit from the proceeds of the sale of the bonds.

19 (7) If more than one local government unit adopts a  
20 resolution to issue impact bonds, the local government units  
21 may enter into an interlocal agreement under 7-11-101  
22 through 7-11-108, providing for the issue of impact bonds of  
23 the local government units to be combined in a single  
24 offering, if the governing body of each local government  
25 unit authorizing the bonds determines that the pooling of

1 bonds:

2 (a) is in the best interest of the local government  
3 units;

4 (b) will facilitate the sale of the bonds under more  
5 advantageous terms;

6 (c) will lower the interest rates; or

7 (d) will lower the cost of issuance.

8 (8) In addition to the specific requirements of  
9 7-11-105, the interlocal agreement shall provide:

10 (a) that the bond titles shall denote that impact bonds  
11 of different local government units have been pooled and  
12 shall refer to each local government unit executing the  
13 interlocal agreement;

14 (b) for a single debt service fund, to be held by a  
15 qualified trust company, to which each local government unit  
16 shall pledge and pay the annual special tax levies levied  
17 against the large-scale mineral development; and

18 (c) that the bonds are payable solely from and against  
19 the debt service funds under the interlocal agreement."

20 **Section 3.** Section 15-16-201, MCA, is amended to read:

21 "15-16-201. Tax prepayment -- new industrial  
22 facilities. (1) A person intending to construct or locate a  
23 major new industrial facility, as defined in subsection (2)  
24 of this section, shall upon request of the board of county  
25 commissioners of the county in which the facility is to be

located, prepay, when permission is granted to construct or locate by the appropriate governmental agency, an amount equal to three times the estimated property tax due the year the facility is completed. The person who is to prepay under this section shall not be obligated to prepay the entire amount at one time but, upon request of the board of county commissioners of the county, shall prepay only that amount shown to be needed from time to time. To assure this payment or payments, the person who is to prepay shall guarantee to the board of county commissioners and also have a bank or banks guarantee that these amounts will be paid as needed for expenditures created by the impact. When the facility is completed and assessed by the department of revenue, it shall be subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that one-fifth of the amount prepaid shall be allowed as a credit against property taxes in each of the first 5 years after the start of productive operation of the facility.

(2) A major new industrial facility is a manufacturing or mining facility other than a large-scale mineral development as defined in 90-6-302~~4~~<sup>(5)</sup> which will employ on an average annual basis at least 100 people in construction or operation of the facility and which will create a substantial adverse impact on existing state, county, or municipal services."

**Section 4.** Section 82-4-335, MCA, is amended to read:

"82-4-335. Operating permit -- limitation. (1) A person may not engage in mining, ore processing, or reprocessing of tailings or waste material, construct or operate a hard-rock mill, use cyanide ore-processing reagents, or disturb land in anticipation of those activities in the state without first obtaining an operating permit from the board. A separate operating permit is required for each complex.

(2) A small miner who intends to use a cyanide ore-processing reagent shall obtain an operating permit for that part of his operation where the cyanide ore-processing reagent will be used or disposed of.

(3) Prior to receiving an operating permit from the board, a person shall pay the basic permit fee of \$25 and shall submit an application on a form provided by the board, which must contain the following information and any other pertinent data required by rule:

(a) name and address of the operator and, if a corporation or other business entity, the name and address of its principal officers, partners, and the like and its resident agent for service of process, if required by law;

(b) minerals expected to be mined;

(c) a proposed reclamation plan;

(d) expected starting date of operations;

(e) a map showing the specific area to be mined and the

1 boundaries of the land which will be disturbed, topographic  
2 detail, the location and names of all streams, roads,  
3 railroads, and utility lines on or immediately adjacent to  
4 the area, location of proposed access roads to be built, and  
5 the names and addresses of the surface and mineral owners of  
6 all lands within the mining area, to the extent known to the  
7 applicant;

8 (f) types of access roads to be built and manner of  
9 reclamation of road sites on abandonment;

10 (g) a plan which will provide, within limits of normal  
11 operating procedures of the industry, for completion of the  
12 operation;

13 (h) ground water and surface water hydrologic data  
14 gathered from a sufficient number of sources and length of  
15 time to characterize the hydrologic regime;

16 (i) a plan detailing the design, operation, and  
17 monitoring of impounding structures, including but not  
18 limited to tailings impoundments and water reservoirs,  
19 sufficient to ensure that the structures are safe and  
20 stable;

21 (j) a plan identifying methods to be used to monitor  
22 for the accidental discharge of objectionable materials and  
23 remedial action plans to be used to control and mitigate  
24 discharges to surface or ground water; and

25 (k) an evaluation of the expected life of any tailings

1 impoundment or waste area and the potential for expansion of  
2 the tailings impoundment or waste site.

3 (4) Except as provided in subsection (6), the permit  
4 provided for in subsection (1) for a large-scale mineral  
5 development as defined in 90-6-302 must be conditioned to  
6 provide that activities under the permit may not commence  
7 until the impact plan is approved under 90-6-307 and until  
8 the permittee has provided a written guarantee to the  
9 department and to the hard-rock mining impact board of  
10 compliance within the time schedule with the commitment made  
11 in the approved impact plan, as provided in 90-6-307. If the  
12 permittee does not comply with that commitment within the  
13 time scheduled, the board, upon receipt of written notice  
14 from the hard-rock mining impact board, shall suspend the  
15 permit until it receives written notice from the hard-rock  
16 mining impact board that the permittee is in compliance.

17 (5) When the department determines that a permittee has  
18 become or will become a large-scale mineral developer  
19 pursuant to 82-4-339 and 90-6-302~~(4)~~(5) and provides notice  
20 as required under 82-4-339, within 6 months of receiving the  
21 notice, the permittee shall provide the board with proof  
22 that he has obtained a waiver of the impact plan requirement  
23 from the hard-rock mining impact board or that he has filed  
24 an impact plan with the hard-rock mining impact board and  
25 the appropriate county or counties. If the permittee does



not file the required proof or if the hard-rock mining impact board certifies to the board that the permittee has failed to comply with the hard-rock mining impact review and implementation requirements in Title 90, chapter 6, parts 3 and 4, the board shall suspend the permit until the permittee files the required proof or until the hard-rock mining impact board certifies that the permittee has complied with the hard-rock mining impact review and implementation requirements.

(6) Compliance with 90-6-307 is not required for exploration and bulk sampling for metallurgical testing when the aggregate samples are less than 10,000 tons.

(7) A person may not be issued an operating permit if that person's failure to comply with the provisions of this part, the rules adopted under this part, or a permit or license issued under this part has resulted in the forfeiture of a bond unless that person meets the conditions described in 82-4-360."

**Section 5.** Section 82-4-339, MCA, is amended to read:

"82-4-339. Annual report of activities by permittee -- fee -- notice of large-scale mineral developer status. (1) Within 30 days after completion or abandonment of operations on an area under permit or within 30 days after each anniversary date of the permit, whichever is earlier, or at such later date as may be provided by rules of the board and

each year thereafter until reclamation is completed and approved, the permittee shall pay the annual fee of \$25 and shall file a report of activities completed during the preceding year on a form prescribed by the board which report shall:

(a) identify the permittee and the permit number;

(b) locate the operation by subdivision, section, township, and range and with relation to the nearest town or other well-known geographic feature;

(c) estimate acreage to be newly disturbed by operation in the next 12-month period;

(d) include the number of persons on the payroll for the previous permit year and for the next permit year at intervals that the department considers sufficient to enable a determination of the permittee's status under 90-6-302~~(4)~~(5); and

(e) update any maps previously submitted or specifically requested by the board. Such maps shall show:

(i) the permit area;

(ii) the unit of disturbed land;

(iii) the area to be disturbed during the next 12-month period;

(iv) if completed, the date of completion of operations;

(v) if not completed, the additional area estimated to be further disturbed by the operation within the following

1 permit year; and

2 (vi) the date of beginning, amount, and current status  
3 of reclamation performed during the previous 12 months.

4 (2) Whenever the department determines that the  
5 permittee has become or will, during the next permit year,  
6 become a large-scale mineral developer, it shall immediately  
7 serve written notice of that fact on the permittee, the  
8 hard-rock mining impact board, and the county or counties in  
9 which the operation is located."

10 **Section 6.** Section 90-6-311, MCA, is amended to read:

11 "90-6-311. **Impact plan amendments.** (1) The impact plan  
12 may provide for amendment under definite conditions  
13 specified in the plan. Also, the governing body of an  
14 affected county or the mineral developer may petition the  
15 board for an amendment to an approved impact plan if:

16 (a) employment at the large-scale mineral development  
17 is forecast to increase or decrease by at least 75 persons,  
18 as determined under 90-6-302~~(4)~~(5), over or under the  
19 employment levels contemplated by the approved impact plan;  
20 or

21 (b) it becomes apparent that an approved impact plan is  
22 materially inaccurate because of errors in assessment and 2  
23 years have not elapsed since the date the facility begins  
24 commercial production; or

25 (c) the governing body of an affected county and the

1 mineral developer join in a petition to amend the impact  
2 plan.

3 (2) Within 10 days of receipt the board shall publish  
4 notice of the petition at least once in a newspaper of  
5 general circulation in the affected county. The petition  
6 must include:

7 (a) an explanation of the need for an amendment;

8 (b) a statement of the facts and circumstances  
9 underlying the need for an amendment; and

10 (c) a description of the corrective measures proposed  
11 by the petitioner.

12 (3) Within 60 days after notice that the petition has  
13 been received, an affected local government unit or the  
14 mineral developer must notify the board in writing if such  
15 person objects to the amendments proposed by the petitioner,  
16 specifying the reasons why the impact plan should not be  
17 amended as proposed. If no objection is received within the  
18 60-day period, the impact plan must be amended by the board  
19 as proposed by the petitioner.

20 (4) If an objection is received, within 10 days of its  
21 receipt, the board shall notify the petitioner and include a  
22 copy of all objections received by the board. If the  
23 objecting party and the petitioner cannot resolve the  
24 objections within 30 days after the expiration of the 60-day  
25 period, the board shall conduct a hearing on the validity of

the objections within 30 days after the failure of the parties to resolve the objections. The hearing must be held in the affected county or, if objections are received from local government units in more than one county, must be held in the county which in the board's judgment is more greatly affected. The provisions of the Montana Administrative Procedure Act apply to the conduct of the hearing.

(5) Following the hearing, the board shall make findings as to those portions of the amendments which were objected to and, if appropriate, amend the impact plan accordingly. The board shall cause the findings and impact plan, as amended, to be served on all parties. Any local government unit or the developer is entitled to judicial review, as provided by Title 2, chapter 4, part 7, in the district court for the judicial district in which the hearing was held."

**Section 7.** Section 90-6-307, MCA, is amended to read:

"90-6-307. Impact plan to be submitted. (1) After an application for a permit for a large-scale mineral development is made under 82-4-335, the person seeking the permit shall submit to the affected counties and the board an impact plan describing the economic impact the large-scale mineral development will have on local government units and shall file proof of such submission to the counties with the board. Whenever an environmental

impact statement on the permit application is prepared under 75-1-201, the lead agency shall cooperate to the fullest extent practicable with the affected local government units to eliminate duplication of effort in data collection. The governing bodies of the affected counties shall publish notice of the submission of an impact plan at least once in a newspaper of general circulation in the county. The mineral developer and the affected local government units shall ensure that the impact plan includes:

(a) a timetable for development, including the opening date of the development and the estimated closing date;

(b) the estimated number of persons coming into the impacted area as a result of the development;

(c) the increased capital and operating cost to local government units for providing services which can be expected as a result of the development;

(d) the financial or other assistance the developer will give to local government units to meet the increased need for services.

(2) In the impact plan, the developer shall commit itself to pay all of the increased capital and net operating cost to local government units that will be a result of the development, as identified in the impact plan, either from tax prepayments, as provided in 90-6-309, special industrial ~~educational~~ local government facility impact bonds, as

1 provided in 90-6-310, or other funds obtained from the  
2 developer, and shall provide a time schedule within which it  
3 will do so. The plan may provide for funding from other  
4 revenue sources or funding mechanisms if the developer  
5 guarantees that the amount to be provided from these sources  
6 will be paid.

7 (3) Upon request of the governing body of an affected  
8 unit of local government, the mineral developer, prior to  
9 the end of the 90-day review period, shall provide financial  
10 or other assistance as necessary to prepare for and evaluate  
11 the impact plan. The governing body of the affected county  
12 must contract with the developer to obtain the requested  
13 financial assistance for each unit of local government  
14 within the county. Any disbursements to a unit of local  
15 government under this subsection shall be credited against  
16 future tax liabilities, if any.

17 (4) The governing body of the county where the fiscal  
18 impacts on local government units are forecasted in the  
19 impact plan to be most costly shall, within 90 days after  
20 receipt of the impact plan from the developer, conduct a  
21 public hearing on the impact plan.

22 (5) An affected local government unit that has not been  
23 identified in an impact plan submitted to the board as being  
24 likely to experience increased capital and operating costs  
25 for providing services which can be expected as a result of

1 the development may object to the impact plan under the  
2 provisions of this section if the local government unit  
3 clearly demonstrates that it is likely to experience  
4 increased capital and operating costs from the mineral  
5 development.

6 (6) An affected local government unit shall, within 90  
7 days after receipt of the impact plan from the developer,  
8 notify the board in writing if that local government unit  
9 objects to the impact plan, specifying the reasons why the  
10 impact plan is objected to. During the 90-day period, an  
11 affected local government unit may petition for one 30-day  
12 extension by submitting a written request to the board  
13 stating the need and justification for the extension. The  
14 board shall grant the extension unless it finds there is no  
15 reasonable basis for the request. If no objection is  
16 received within the 90-day period or any extension thereof,  
17 the impact plan is approved without any review by the board.  
18 An approved plan is binding and may only be altered under  
19 the amendment provisions of 90-6-311.

20 (7) If objections are received from a local government  
21 unit, the board shall, within 10 days, notify the developer  
22 and forward a copy of the local government unit's objections  
23 to the developer. The local government unit and the  
24 developer have 30 days, or a longer period if both the local  
25 government unit and the developer request an extension, to

1 resolve the objection. If the objections are not resolved,  
2 the board shall conduct a hearing on the validity of the  
3 objections, which shall be held in the affected county or,  
4 if objections are received from local government units in  
5 more than one county, shall be held in the county which, in  
6 the board's judgment, is more greatly affected. The  
7 provisions of the Montana Administrative Procedure Act shall  
8 apply to the conduct of the hearing. The impact plan filed  
9 by the developer shall carry no presumption of correctness  
10 at the hearing.

11 (8) Following the hearing, the board shall, within 60  
12 days, make findings as to those portions of the impact plan  
13 which were objected to and, if appropriate, amend the impact  
14 plan accordingly. The findings and impact plan, as amended,  
15 shall be served by the board upon all parties. Any local  
16 government unit or the developer, if aggrieved by the  
17 decision of the board, is entitled to judicial review, as  
18 provided by Title 2, chapter 4, part 7, in the district  
19 court in and for the judicial district in which the hearing  
20 was held.

21 (9) The developer shall, within 30 days of receipt of  
22 the approved impact plan, provide the board with a written  
23 guarantee that the developer will meet the increased costs  
24 of public services and facilities as specified in the  
25 approved impact plan and according to the time schedule

1 contained in the approved impact plan.

2 (10) The developer may make payments as specified in the  
3 approved impact plan directly to a local government unit or  
4 to the board. The governing body of a local government unit  
5 receiving payments shall deposit the payments into an impact  
6 fund. The developer and the affected governing body shall  
7 each issue to the board written verification of each payment  
8 and its intended use in compliance with the impact plan. The  
9 board shall deposit payments received from a developer into  
10 the hard-rock mining impact account established by 90-6-304.

11 (11) The board shall notify the department of state  
12 lands of its receipt of the written guarantee of payment and  
13 of any failure of the developer to comply with this section.

14 (12) Upon receipt of evidence that an affected local  
15 government unit identified in the approved impact plan is  
16 providing or is preparing to provide an additional service  
17 or facility provided for in the approved impact plan, the  
18 board shall, if the hard-rock mining impact account is used  
19 to deliver payments to the local government unit, pay to  
20 that local government unit, in one sum or in parts, the  
21 money from the hard-rock mining impact account identified in  
22 the plan as the increased cost to the local government unit  
23 of providing that public service or facility.

24 (13) If it is determined that an objection filed by an  
25 affected local government unit under subsections (5) and (6)

1 or 90-6-311(3) is valid and it results in some remedial  
2 order by the board or court of competent jurisdiction, the  
3 local government unit shall be awarded and the developer  
4 shall pay reasonable costs and attorney fees associated with  
5 any administrative or judicial appeals filed under this  
6 section. Any attorney fees and costs awarded shall be in  
7 addition to any amounts paid by the developer under this  
8 part.

9 (14) Upon a determination by the department of state  
10 lands that a permittee under 82-4-335 has become or will  
11 become a large-scale mineral developer, the permittee may  
12 petition the board for a waiver of the impact plan  
13 requirement. The board may grant a waiver or conditional  
14 waiver of this requirement only if it has provided notice  
15 and opportunity for hearing to the permittee and to all  
16 affected local government units. The board shall adopt  
17 criteria under which a waiver may be granted. A waiver  
18 issued by the board may be revoked as provided in the  
19 conditional waiver or if the permittee and contractors at  
20 the mineral development increase their payrolls from the  
21 date of the waiver by 75 or more persons, provided the  
22 revocation is requested by an affected local government unit  
23 and notice and opportunity for hearing are given to the  
24 permittee and all affected local government units. The board  
25 shall notify the board of land commissioners of any waiver

1 that has been revoked.

2 (15) When a person who holds an operating permit under  
3 82-4-335 and who has filed an impact plan fails to comply  
4 with the review and implementation requirements in this part  
5 and part 4 of this chapter, the board shall certify to the  
6 board of land commissioners that the failure to comply has  
7 occurred and shall certify when a permittee who has  
8 previously failed to comply comes into compliance."

9 NEW SECTION. **Section 8.** Effective date. [This act] is  
10 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0237, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to expand the permissible projects financed by hard-rock mining impact bonds; to clarify the procedure for the issuance of bonds; to provide for interlocal agreements to facilitate bond issues.

FISCAL IMPACT:

The proposal has no fiscal impact on state or local governments or school districts. It does not limit the ability of local governments or school districts to issue or participate in the issuance of hard rock mining impact bonds.

 1-22-91  
ROD SUNDSTED, BUDGET DIRECTOR DATE  
Office of Budget and Program Planning

 1-23-91  
ORVAL S. ELLISON, PRIMARY SPONSOR DATE

Fiscal Note for HB0237, as introduced

**HB 237**

implementing conservation measures as part of their income tax deductions or credits. Mr. Downen suggested the committee address this problem.

Opponents' Testimony:

Marjorie Thomas, MPC, opposed HJR 8, specifically subsections 3,4, and 5. MPC is not opposed to the intent of the resolution but is concerned with language used to reach the objective. MPC is conservation oriented. She felt the subsections are not constitutional. Ms. Thomas would like to meet with REP. KADAS to work on amending the resolution.

Gene Phillips, Pacific Power and Light, opposed HJR 8 and would like to work with REP. KADAS to amend the language. He was uncomfortable with paragraphs 3,4, and 5. The people supplied by his company would not benefit from conservation as their rates decrease as more energy is purchased. One can not control what the consumer should do.

Discussion:

REP. RANEY suggested a subcommittee be formed to investigate the resolution further. REP. KADAS responded a subcommittee would not be necessary. He offered to work on it more and bring it back into committee for discussion. REP. RANEY agreed and stated that plenty of notice prior to executive action will be provided. Any questions from the committee may best be addressed when the resolution returns to committee.

Closing by Sponsor:

REP. KADAS stated he'd be back after meeting with all the concerned groups.

HEARING ON HB 237

Presentation and Opening Statement by Sponsor:

REP. ELLISON, House District 81 - McLeod, stated the bill fine tunes the Hard Rock Impact Act. It will allow bonds to be sold by local governments for other facilities in addition to schools.

Proponents' Testimony:

Carol Ferguson, Hard-Rock Mining Impact Board, supported HB 237. EXHIBIT 7.

John Beanding, Stillwater County Administrator, supported HB 237 for reasons previously mentioned.

Steve Granzow, Pegasus Gold Cooperation, supported HB 237.

Ward Shanahan, Stillwater Mining Company, Stillwater PGM



Resources, and Chevron Companies, supported passage of HB 237.  
EXHIBIT 8.

Jim Jensen, Montana Environmental Information Center, supported  
HB 237.

Dennis Olsen, Northern Plains Resource Council, supported HB 237.  
EXHIBIT 9.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor:

REP. ELLISON stated this is a good bill and urged passage.

EXECUTIVE ACTION ON HB 139

Motion: REP. GILBERT MOVED HB 139 DO PASS.

Recommendation and Vote: HB 139 DO PASS. Motion carried  
unanimously.

EXECUTIVE ACTION ON HB 160

Motion: REP. REAM MOVED HB 160 DO PASS

Discussion:

REP. HOFFMAN asked for clarification on the fiscal note, specifically the "Special Revenue (02)". REP. GILBERT replied he thought it is a special revenue account for the fee money. The bill addressing this will be coming along. REP. HOFFMAN asked if the proprietary fund was money from one agency that gets paid into the account. REP. RANEY suggested Mr. Tony Grover, DHES, provide some informational testimony to help answer some questions. REP. RANEY asked Mr. Grover what would happen to the bill if the fee bill was not passed. He indicated the bill would have no funding and be ineffective. Mr. Grover responded to REP. HOFFMAN'S question concerning the proprietary fund. This fund appears to be set up by the Department of Administration (DOA) to serve as a funding mechanism. REP. VIVIAN BROOKE suggested the money represents the standard fee the DOA requires for services. Mr. Grover concurred. REP. RANEY added the numbers will also be examined by the Appropriations Committee.

**HOUSE OF REPRESENTATIVES**  
**NATURAL RESOURCES COMMITTEE**

**ROLL CALL**

**DATE** Jan. 23, 1991

| NAME                             | PRESENT | ABSENT | EXCUSED |
|----------------------------------|---------|--------|---------|
| REP. MARK O'KEEFE, VICE-CHAIRMAN | ✓       |        |         |
| REP. BOB GILBERT                 | ✓       |        |         |
| REP. BEN COHEN                   | ✓       |        |         |
| REP. ORVAL ELLISON               | ✓       |        |         |
| REP. BOB REAM                    | ✓       |        |         |
| REP. TOM NELSON                  | ✓       |        |         |
| REP. VIVIAN BROOKE               | ✓       |        |         |
| REP. BEVERLY BARNHART            | ✓       |        |         |
| REP. ED DOLEZAL                  | ✓       |        |         |
| REP. RUSSELL FAGG                | ✓       |        |         |
| REP. MIKE FOSTER                 | ✓       |        |         |
| REP. DAVID HOFFMAN               | ✓       |        |         |
| REP. DICK KNOX                   | ✓       |        |         |
| REP. BRUCE MEASURE               | ✓       |        |         |
| REP. JIM SOUTHWORTH              | ✓       |        |         |
| REP. HOWARD TOOLE                | ✓       |        |         |
| REP. DAVE WANZENRIED             | ✓       |        |         |
| REP. BOB RANEY, CHAIRMAN         | ✓       |        |         |
|                                  |         |        |         |
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CS05NATRES.MAN

DEPARTMENT OF COMMERCE  
LOCAL GOVERNMENT ASSISTANCE DIVISION

DATE 1-23-91

HB 237



STAN STEPHENS, GOVERNOR

COGSWELL BUILDING — ROOM C 211  
CAPITOL STATION

STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620-0522

DATE: January 23, 1991

TO: House Natural Resources Committee

FROM: Carol L. Ferguson, Administrative Officer, Hard-Rock Mining Impact Board

RE: HB 237

Mr. Chairman, Representative Ellison, members of the committee, my name is Carol Ferguson. I am the administrative officer of the Hard-Rock Mining Impact Board. Typically, the Board does not take a position on substantive changes to the Impact Act, except to try to ensure that proposed changes are clearly understood and are technically feasible. However, the Board has traditionally supported the consensus efforts of mineral developers, local government units, and concerned citizens to make the Impact Act function more equitably, more smoothly and with needed flexibility.

Therefore, the testimony I am about to offer is my own professional evaluation of HB 237 and does not represent a formal position of the Board, although, I will say that in informal discussions the Board has appeared quite comfortable with the concept of HB 237.

As required by the Hard-Rock Mining Impact Act, the developer of each new large-scale hard-rock mining project must pay affected local government units all increased local government capital costs resulting from the proposed new development. The costs are identified in an impact plan prepared by the developer and reviewed by the affected local government units. At present the Act authorizes three methods of paying these costs: tax prepayments which must later be credited to the developer, grants, or, in the case of schools only, education impact bonds.

Under the current law, an education impact bond is a special bond that may be used for the construction of school facilities needed as a result of a large-scale hard-rock mine. Principal and interest on the bond are paid by a special mill levy against the taxable valuation of the mineral development. The bond is debt only of the mineral development. The bond is not a debt of the school district as a whole and does not affect the bonding capacity of the district. Interest on the bond is exempt from state taxes.

HB 237 expands this impact bond concept to create a similar financing option for all local government capital facility improvements needed as a result of the mineral development, as identified in the impact plan. HB 237 does not eliminate any existing financing provisions nor preclude their use, if they should be considered more appropriate for meeting specific needs.

During the past year, the Hard-Rock Mining Impact Board has provided several opportunities for public discussion of the facility bond concept as proposed by HB 237. In that context, the Board has heard no opposition to the proposal, which appears, in different ways, to benefit mineral developers, local government units and local taxpayers.

Mineral developers benefit because the bondholders, not the developer, will be providing the up-front money for local government capital improvements at a time when the developer is incurring its own heavy capital costs in the construction of a mine and is not yet generating revenue from production. In addition, by means of interlocal agreements, the costs of a number of smaller capital projects may be pooled into a single, larger and more cost effective bond issue.

The affected local government units benefit because they will be spared the necessity for calculating and providing tax credits for capital expenses from local government funds that often are intended for operating expenses, not capital costs. Local property taxpayers benefit because a reduction in tax credits will accelerate the time when their tax base realizes the full benefit of the mineral development.

Bondholders benefit because affected local government units are empowered to require from the developer a guarantee of bond payment appropriate to the project and because interest earned on the bonds is not subject to taxation by the state.

HB 237 does not change any existing rights or obligations under the Impact Act, except that it does bring the definition of local government unit up to date, in a manner consistent with the history, purpose and structure of the Act. In 1983 the Impact Act was amended to narrow what had been a very broad definition of local government unit. Where the statute had once encompassed all independent special purpose districts, the 1983 definition was limited to those independent special districts that provide services particularly affected by population growth, such as county water and sewer districts and rural fire districts. In 1985 the legislature authorized the creation of an additional district in this category, the county park district. Under the 1983 criteria for defining local government units, county park districts should appropriately be included, as is proposed by HB 237.

Overall, it appears that HB 237 represents a return to the consensus legislation that characterized the early history of the Impact Act.

Thank you for this opportunity to testify in support of HB 237, as introduced.

To The Committee on Natural Resources  
of the House of Representatives

Mr. Chairman and Members of the Committee:

For the record, my name is Ward A. Shanahan; I am the lobbyist for Stillwater Mining Company and Stillwater PGM Resources which respectively operate a mine in Stillwater County and are developing a second mine in Sweet Grass County for the production of platinum and palladium group minerals.

My clients were the first to come under the Montana Hard Rock Mining Act and were instrumental in its drafting and passage in 1981. We appear here today in support of HB 237 which is a proposed amendment to the Hard Rock Mining Impact Act to amend and clarify the procedure for the issuance of capital improvement bonds.

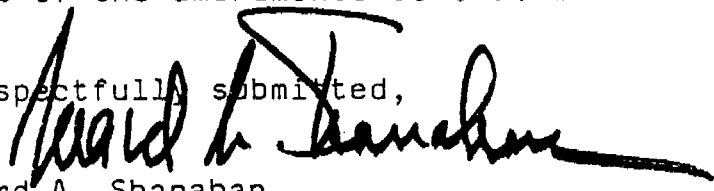
The capital improvement bond concept which has been in the Hard Rock Impact Act a long time to cover education and school district projects, should properly be expanded to allow use of this device in connection with other capital improvement facilities owned, operated, or maintained by local government units.

The use of these capital improvement bonds is entirely permissive and comes about as a result of an agreement between the developer and the local government units in a hard rock mining impact plan. The flexibility which would be afforded by passage of HB 237 should improve the operation of the Hard Rock Mining Impact Act. We believe it is mutually beneficial to the developer and the local government unit to have available the maximum number of problems solving options to make the development of mining projects a smoother process.

We urge the passage of HB 237. Up to the present time, we believe the hard rock mining impact process has generally worked well to solve many problems created by the development of large-scale mining projects and to integrate developers into the communities in which its employees and their families must work and live their lives.

If amendments are to be made by the Committee, we would appreciate notice and copies of the amendments so that we can properly respond.

Respectfully submitted,

  
Ward A. Shanahan  
Registered Lobbyist for  
Stillwater Mining Company,  
Stillwater PGM Resources, and  
Chevron Companies  
P. O. Box 1715  
Helena, MT 59624  
(406) 442-8560

## TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE ON HOUSE BILL 237

Wednesday, January 23, 1991

Mr. Chairman, members of the Committee, my name is Dennis Olson, and I am a lobbyist for the Northern Plains Resource Council (NPRC), a grassroots citizens' organization which addresses natural resource development and agricultural issues. I am testifying today in support of HB 237 on behalf of NPRC.

NPRC has members in four affiliated community groups currently being directly affected by major hard rock mining projects regulated by the Hard Impact Act. These include the Beartooth Alliance in the Cooke City/Silver Gate area; the Bear Creek Council in Gardiner area; the Cottonwood Resource Council in the Big Timber area; and the Stillwater Protective Association in the Nye area. Some of our members in these groups have reviewed Representative Ellison's bill, and agree with its provisions for the following reasons:

1) HB 237 would increase local control of mineral development by increasing the flexibility of local government and the company in setting up bonds under the Hard Rock Impact Act and the Property Base Sharing Act.

2) HB 237 would allow other local governments besides school districts to utilize the mining project's financial resources for other worthy facilities.

3) HB 237 could in some cases decrease the potential for inadequate bond guarantees by increasing the number of local governments units who review the bond guarantee mechanisms, and who have a stake in making sure they are adequate. This could in turn decrease risk to resident taxpayers.

1-23-91

HB 237

## WITNESS STATEMENT

NAME Natural Resources ~~\_\_\_\_\_~~ Stephen Granger

ADDRESS 3045 Meadowlark Dr. East Helena MT 59635

WHOM DO YOU REPRESENT? Pagan Gold Corporation

SUPPORT   XX   OPPOSE            AMEND           

COMMENTS: \_\_\_\_\_

Support House Bill No. 237

Urge passage of HB No. 237

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. 237  
 DATE 1-23-91 SPONSOR(S) Ellison

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS   | REPRESENTING                  | BILL | OPPOSE | SUPPORT |
|--------------------|-------------------------------|------|--------|---------|
| Stephen R. Cronrow | Pegasus Gold                  | 237  |        | X       |
| Narel L. Ferguson  | Hard-Rock Mining<br>Omaha Bd. | 237  |        | X       |
| John Beaudry       | Stillwater- County            | 237  |        | X       |
| Ward Kanaka        | STILLWATER MINING             | 237  |        | X       |
| Norris Olson       | Northern Plains Res. Council  | 237  |        | X       |
| Jim Jensen         | WELC                          | 237  |        | X       |
|                    |                               |      |        |         |
|                    |                               |      |        |         |
|                    |                               |      |        |         |
|                    |                               |      |        |         |
|                    |                               |      |        |         |
|                    |                               |      |        |         |
|                    |                               |      |        |         |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
 ARE AVAILABLE IF YOU CHOOSE TO SUBMIT WRITTEN TESTIMONY.



these places. REP. GILBERT said after the \$100,000,000 is accumulated, the excess money will be available. The proposed process will allow money to be accessed earlier and start accomplishing some of the many needed projects. This process is not violating any rules or the constitution. CHAIR RANEY said many programs may ask for funding via this method, potentially including some obscure unrelated programs. This scenario could lead to the \$100,000,000 cap never being reached. REP. GILBERT responded that the requests need to be kept on track. Obscure, unrelated requests wouldn't be granted. He stated this is a political arena in which politicians are trying to accomplish their goals in a manner that causes as little damage as possible.

#### Closing by Sponsors:

REP. DRISCOLL asked the committee to kill the bill quickly if they don't like it. If the funding source is unacceptable, the committee needs to propose alternative sources, providing it is not the General Fund. The RITT is not sacred. Spending the money now, as opposed to later, would benefit many programs.

REP. GILBERT stated oil and gas counties have opportunities to apply for grant money but have difficulty writing and receiving grants. RITT was started to provide bonds. Many pressing projects exist that need a funding source now. The RITT money will be accessed at a later date, therefore, it makes sense to begin these projects now and tap into the funding source.

CHAIR RANEY closed hearings on HB 199, HB 215, and HB 216. He called for executive action.

#### EXECUTIVE ACTION ON HB 189

Motion: REP. BRUCE MEASURE MOVED HB 189 DO PASS.

#### Amendments, Discussion, and Votes:

REP. RUSSELL FAGG moved the amendments as drafted by Michael Kakuk, EQC staffer. EXHIBIT 10. Motion carried unanimously.

#### Recommendation and Vote:

REP. GILBERT MOVED HB 189 DO PASS AS AMENDED. Motion carried unanimously.

#### EXECUTIVE ACTION ON HB 237

Motion: REP. ELLISON MOVED HB 237 DO PASS.

Recommendation and Vote: HB 237 DO PASS. Motion carried

unanimously.

Announcements and Discussion:

REP. FAGG suggested the committee get a legal opinion from the Attorney General to address the constitutionality of redirecting RITT funds. He suggested Mr. Jensen outline his concerns and the committee seek a legal opinion on them. The committee discussed the need to seek the opinion of the Attorney General in light of the fact that an opinion may take several weeks or months and three attorneys have already been consulted. The committee agreed that REP. FAGG with REP. TOOLE will talk with the Attorney General about obtaining an informal opinion. CHAIR RANEY announced executive action on HB 240 will occur on Monday.

ADJOURNMENT

Adjournment: 5:15 pm.

  
\_\_\_\_\_  
BOB RANEY, Chair

  
\_\_\_\_\_  
LISA FAIRMAN, Secretary

BR/lf

HOUSE OF REPRESENTATIVES  
NATURAL RESOURCES COMMITTEE

ROLL CALL

DATE Jan 25, 1991

| NAME                             | PRESENT | ABSENT | EXCUSED |
|----------------------------------|---------|--------|---------|
| REP. MARK O'KEEFE, VICE-CHAIRMAN | ✓       |        |         |
| REP. BOB GILBERT                 | ✓       |        |         |
| REP. BEN COHEN                   | ✓       |        |         |
| REP. ORVAL ELLISON               | ✓       |        |         |
| REP. BOB REAM                    | ✓       |        |         |
| REP. TOM NELSON                  | ✓       |        |         |
| REP. VIVIAN BROOKE               | ✓       |        |         |
| REP. BEVERLY BARNHART            | ✓       |        |         |
| REP. ED DOLEZAL                  | ✓       |        |         |
| REP. RUSSELL FAGG                | ✓       |        |         |
| REP. MIKE FOSTER                 | ✓       |        |         |
| REP. DAVID HOFFMAN               | ✓       |        |         |
| REP. DICK KNOX                   | ✓       |        |         |
| REP. BRUCE MEASURE               | ✓       |        |         |
| REP. JIM SOUTHWORTH              | ✓       |        |         |
| REP. HOWARD TOOLE                | ✓       |        |         |
| REP. DAVE WANZENRIED             | ✓       |        |         |
| REP. BOB RANEY, CHAIRMAN         | ✓       |        |         |
|                                  |         |        |         |
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|                                  |         |        |         |

HOUSE STANDING COMMITTEE REPORT

January 25, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Natural Resources report  
that House Bill 237 (first reading copy -- white) do pass .

Signed: \_\_\_\_\_  
Bob Raney, Chairman

Closing by Sponsor:

Representative Gilbert told the committee he recommended adopting the first amendment but not the second.

HEARING ON HOUSE BILL 237

Presentation and Opening Statement by Sponsor:

Representative Ellison, District 81, presented HB 237 to the committee.

Proponents' Testimony:

Carol L. Ferguson, Administrative Officer for the Hard-Rock Mining Impact Board, Montana Department of Commerce, stated that ordinarily the board does not take a stand on substantive issues dealing with the impact except for those dealing directly with administrative responsibilities. (Exhibit 1).

Opponents' Testimony:

None.

Questions from Committee Members:

Senator Doherty asked Ferguson if, on page 2, they were talking about facilities only owned by local governments?

Ferguson replied that the impact act only addresses the impact to local government, increased costs, services and facilities. Ferguson stated that the "basic idea" came out of the Stillwater Mining Company through an act to upgrade an access road to a mine. Under current law, Ferguson said, the only way that can be accomplished is either by a grant to Stillwater County or through tax prepayments.

Closing by sponsor:

Representative Ellison asked that HB 237 BE CONCURRED IN.

EXECUTIVE ACTION ON HB 237

Motion:

Senator Keating made a motion that House Bill 237 BE CONCURRED IN.

Discussion:

None.

Recommendation and Vote:

The Motion by Senator Keating that HB 237 BE CONCURRED IN passed unanimously.

EXECUTIVE ACTION ON HOUSE BILL 161

Motion:

None

Discussion:

Senator Grosfield suggested that the language in the bill be changed to make establishing a sewer district permissive and not mandatory.

Senator Doherty offered support for Senator Grosfield's amendment. Doherty said he believes some of the frustration in Cascade County concerns subdivisions with improper sewer systems.

Representative Gilbert stated that he would like EQC to review and research the amendments.

Senator Grosfield said he found the first amendment acceptable.

Deborah Schmidt, Director of Environmental Quality Council, commented that EQC considered an option that would suggest acquiring a waiver of all statutes creating sewer districts but the EQC was unwilling to recommend that. Schmidt said EQC felt that in the interim, some county officials asked for liability and the council members were unwilling.

Senator Tveit wondered if any health officers had dealt with the situation.

Schmidt said there were health officers at EQC meetings where this legislation was discussed and no comments were made at the time.

Chairman Stimatz appointed Senator Grosfield, Senator Doherty and EQC staff to a subcommittee to develop an amendment to HB 161.

EXECUTIVE ACTION ON HOUSE BILL 240

Motion:

There were no motions made regarding SB 240 at the March 8, 1991 hearing.

Discussion:

Senator Bengtson commented that she was "not comfortable at all"

ROLL CALL  
Natural Resources  
COMMITTEE

DATE 3-8-91

52

LEGISLATIVE SESSION

| NAME                   | PRESENT | ABSENT | EXCUSED |
|------------------------|---------|--------|---------|
| Senator Anderson       | ✓       |        |         |
| Senator Bengtson       | ✓       |        |         |
| Senator Bianchi        | ✓       |        |         |
| Senator Doherty        | ✓       |        |         |
| Senator Grosfield      | ✓       |        |         |
| Senator Hockett        | ✓       |        |         |
| Senator Keating        | ✓       |        |         |
| Senator Kennedy        | ✓       |        |         |
| Senator Tveit          | ✓       |        |         |
| Vice Chairman, Weeding | ✓       |        |         |
| Chairman Stimatz       | ✓       |        |         |
|                        |         |        |         |
|                        |         |        |         |
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|                        |         |        |         |

Each day attach to minutes.

DEPARTMENT OF COMMERCE  
LOCAL GOVERNMENT ASSISTANCE DIVISION

STANDARD FORM NO. 64  
DATE 3/8/91  
FILE NO. 115-237

COGSWELL BUILDING — ROOM C 211  
CAPITOL STATION

STAN STEPHENS, GOVERNOR

STATE OF MONTANA

(406) 444-3757

HELENA, MONTANA 59620-0522



DATE: March 8, 1991

TO: Senate Natural Resources Committee

FROM: Carol L. Ferguson, Administrative Officer, Hard-Rock Mining Impact Board

RE: HB 237

Mr. Chairman, Representative Ellison, members of the committee, my name is Carol Ferguson. I am the administrative officer of the Hard-Rock Mining Impact Board. Typically, the Board does not take a position on substantive changes to the Impact Act, except to try to ensure that proposed changes are clearly understood and are technically feasible. However, the Board has traditionally supported mineral developers, local government units, and concerned citizens in their consensus efforts to make the Impact Act function more equitably, more smoothly and with needed flexibility.

The Board finds the concept of HB 237 to be consistent with the purposes and provisions of the Impact Act. In short, HB 237 expands the menu of financing options authorized by the Impact Act.

The Hard-Rock Mining Impact Act operates in the following manner. The developer of each new large-scale hard-rock mining project must pay affected local government units all increased local government capital costs resulting from the proposed new development. The costs are identified in an impact plan prepared by the developer and reviewed by the affected local government units. At present the Act authorizes three methods of paying these costs: tax prepayments which must later be credited to the developer, grants, or, in the case of schools only, education impact bonds.

Under the current law, an education impact bond is a special bond that may be used for the construction of school facilities needed as a result of a large-scale hard-rock mine. Principal and interest on the bond are paid by a special mill levy against the taxable valuation of the mineral development. The bond is debt only of the mineral development. The bond is not a debt of the school district as a whole and does not affect the bonding capacity of the district. Interest on the bond is exempt from state taxes.

HB 237 expands this impact bond concept to create a similar financing option for all local government capital facility improvements needed as a result of the mineral development, as identified in the impact plan. HB 237 does not eliminate any existing financing provisions nor preclude their use, if they should be considered more appropriate for meeting specific needs.



During the past year, the Hard-Rock Mining Impact Board has provided several opportunities for public discussion of the facility bond concept as proposed by HB 237. In that context, the Board has heard no opposition to the proposal, which appears to benefit mineral developers, local government units and local taxpayers.

Mineral developers appear to benefit because the bondholders, not the developer, will be providing the up-front money for local government capital improvements at a time when the developer is incurring its own heavy capital costs in the construction of a mine and is not yet generating revenue from production. In addition, by means of interlocal agreements, the costs of a number of smaller capital projects may be pooled into a single, larger and more cost effective bond issue.

Affected local government units appear to benefit because they will be spared the necessity for calculating and providing tax credits for capital expenses from local government funds that often are intended for operating expenses, not capital costs. Local property taxpayers appear to benefit because a reduction in tax credits will accelerate the time when their tax base realizes the full benefit of the mineral development.

Bondholders appear to benefit because affected local government units are empowered to require from the developer a guarantee of bond payment appropriate to the project and because interest earned on the bonds is not subject to taxation by the State.

HB 237 does not change any existing rights or obligations under the Impact Act, except that it does bring the definition of local government unit up to date, in a manner consistent with the history, purpose and structure of the Act. In 1983 the Impact Act was amended to narrow what had been a very broad definition of local government unit. Where the statute had once encompassed all independent special purpose districts, the 1983 definition was limited to those independent special districts that provide services particularly affected by population growth, such as county water and sewer districts and rural fire districts. In 1985 the legislature authorized the creation of an additional district in this category, the county park district. Under the 1983 criteria, county park districts should appropriately be included in the definition of local government units, as is proposed by HB 237.

Overall, it appears that HB 237 represents a return to the consensus legislation that characterized the early history of the Impact Act.

Thank you for this opportunity to testify.

EXECUTIVE ACTION ON HB 237

Motion:

Motion by Senator Doherty that HB 237 BE CONCURRED IN.

Discussion:

None.

Amendments, Discussion, and Votes:

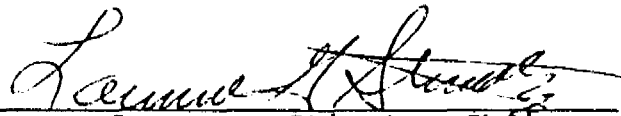
None.

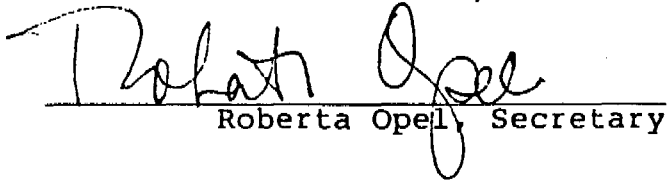
Recommendation and Vote:

Motion by Senator Doherty that HB 237 BE CONCURRED IN passed unanimously.

ADJOURNMENT

Adjournment at: 8:30 pm

  
Lawrence Stimatz, Chairman

  
Roberta Opel, Secretary

ls/ro